

	Effective Date:	09-12-2011	
	Policy #:	H-10	
	Supersedes:		
Subject: PHI Use and Disclosure – Deceased Individual		Page:	1 of 2

PURPOSE

To protect the privacy rights of the Department of Licensing and Regulatory Affairs (LARA) clients who are deceased and provide procedures and guidance for the use and disclosure of a deceased individual's PHI.

DEFINITIONS

Refer to HIPAA Policies and Procedures Definition Glossary

POLICY

The Department of Licensing and Regulatory Affairs (LARA) shall protect the PHI of a deceased individual for as long as the department maintains the PHI.

Disclosure of a deceased individual PHI may be made to coroners, medical examiners, funeral directors, law enforcement, and organ procurement organizations. (CFR 164.512)

LARA will verify the purpose prior to release of information.

A decedent's personal representative may authorize release of the deceased's PHI. The decedent's personal representative is allowed to exercise the rights of the individual to make decisions regarding the decedent's PHI. (CFR 164.502)

PROCEDURE

Responsibility

Action

General - PHI Protection

Except for uses and disclosures for research purposes, the agency must protect the deceased individuals PHI in the same manner and to the same extent as required for a living person's PHI. This protection exists for as long as the PHI is maintained.

	Effective Date:	09-12-2011	
	Policy #:	H-10	
	Supersedes:		
Subject: PHI Use and Disclosure – Deceased Individual		Page:	2 of 2

Disclosure is Permitted

To the deceased individual's personal representative on receipt of a copy of the document granting the personal representative authority. The personal representative's authority must be documented on the designated LARA database.

To a health care provider without an authorization for treatment purposes of family members.

When the deceased person's personal representative has authorized release of the deceased person's PHI using a HIPAA compliant authorization form and has submitted a copy of the document granting authority to the personal representative. The personal representative's authority must be documented on the Beneficiary Provider Contact Tracking System or comparable facility database.

To coroners, medical examiners, funeral directors, law enforcement personnel, when a request has been received in writing. The disclosure must be documented on the Beneficiary Provider Contact Tracking System or related database.

For research purposes without an authorization and absent approval when LARA has obtained the following from the researcher:

- Representation that the use or disclosure is sought solely for research on the protected health information of decedents;
- Documentation at the request of the department, of the death of such individuals; and
- Representation that the protected health information for which use or disclosure is sought is necessary for the research purposes.

Under Freedom Of Information Act (FOIA), and applicable rules for disclosure.

REFERENCES [45 CFR §164.502, §164.512](#)